

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

EDWARD JOSEPH JAGODA,

Defendant-Appellant.

UNPUBLISHED

February 21, 2003

No. 236865

Macomb Circuit Court

LC No. 96-001264

Before: O'Connell, P.J., and Fitzgerald and Murray, JJ.

MEMORANDUM.

Defendant appeals as of right his sentence for uttering and publishing, MCL 750.249, and false pretenses over \$100.00, MCL 750.218, entered after he pleaded guilty to violating probation. We affirm with modification.

Defendant asserts that his presentence report was not reasonably updated prior to his sentencing, the court failed to determine if defendant obtained the report at a reasonable time before sentencing, and failed to provide him an opportunity to challenge the contents of the report. Defendant has not provided this Court with a copy of the original presentence report or the updated report, contrary to MCR 7.212(C)(7). An issue regarding the presentence report is waived where the defendant fails to provide the Court with a copy of the presentence report. *People v Rodriguez*, 212 Mich App 351; 538 NW2d 42 (1995).

Where defendant failed to challenge the accuracy of the report at sentencing, he may not raise the issue on appeal. MCR 6.429(C); *People v Bailey (On Remand)*, 218 Mich App 645, 647; 554 NW2d 391 (1996). Defendant did not object to the contents of the updated report at sentencing, or argue that he had insufficient time to review it. He has not identified any explanation or challenge that he would have made if the matter had been specifically addressed. The transcript shows that the trial court was accurately appraised of the nature of defendant's probation violation, and there is no showing that defendant's sentence was based on erroneous information.

The original plea agreement provided that defendant would plead guilty to false pretenses, and the two uttering and publishing charges would be dismissed. An order dismissing those charges was entered. The judgment of sentence entered after the probation violation proceeding shows that defendant pleaded guilty to the uttering and publishing counts, and erroneously imposes sentences on charges that were dismissed.

Defendant's false pretenses conviction is affirmed, and the matter is remanded for modification of the judgment of sentence as to the uttering and publishing charges. We do not retain jurisdiction.

/s/ Peter D. O'Connell

/s/ E. Thomas Fitzgerald

/s/ Christopher M. Murray